

CORRECTIONS HISTORY OVERVIEW- MONTANA.

The following historical information was derived from a variety of source documents and virtually all the contents within this report are either paraphrased or copied from previous work. Citations are provided in both instances to allow additional research from original documents and to credit earlier efforts.

The territory of Montana, created in 1864, had no prison during the Civil War and gold rush days. Federal prisoners, convicted of violating the laws of Congress, were sent under contract to the Nebraska State Penitentiary. Those convicted of violating territorial laws were incarcerated in county jails, primarily in Madison County. A rudimentary federal prison existed for a short time in Virginia City, but it was not adequate for the demands of the territory.

Territorial Governor James M. Ashley demanded a properly equipped penitentiary, and on January 22, 1867, Congress appropriated "no more than \$40,000" to erect a prison in Montana. Territory at a site to be selected by the Territorial Legislature, subject to approval by the Secretary of Interior. On the day the appropriation became law, the Territorial Legislative Assembly instructed C.S. Ream and William Sturgis to locate a site. They chose Algenta [Northeast of Bannock], but were overruled by the Territorial government. On November 19, 1867, the Legislative Assembly of the Territory of Montana approved the Deer Lodge site.

An eleven and 4/5 acre site in Deer Lodge was selected and Montana Territorial Governor Green Clay Smith notified O.H. Browning, the Secretary of Interior of the action. However, a group of Deer Lodge residents (including Granville Stuart and J.S. Pemberton) contested the Territorial government's claim to the site until finally the U. S. Attorney General's Office settled the issue by ruling that the United States already owned the land.

Dr. Armistead Hughes Mitchell, pioneer physician and surgeon in the Deer Lodge Valley, was appointed as Superintendent of Construction and Building in 1869 by President Grant to begin the actual construction of the Territorial Prison. He was immediately faced with a fiscal problem. The original prison design, by a Mr. Mollett representing the Supervising Architect of the Treasury Department, would cost at least \$100,000 to construct, according to James Cavanaugh, Montana's Territorial Delegate; however, only \$40,000 had been appropriated. In response to the limited amount of available money, Dr. Mitchell began a series of cost-cutting project revisions which eventually reduced the original design from a central building with North and South cell wings to a

single wing constructed of granite (which was cheaper than cement). This "Left wing of the Montana Penitentiary" was complete by October 6, 1870 and ownership transferred from the U.S. Attorney General's Office to the Territory of Montana on May 15, 1873.

"From the very beginning, it was apparent that the new wing failed to satisfy even minimal expectations. The finished wing entailed 'nothing but bare stone walls, roof, floor, fourteen brick cells, six by eight feet, in the clear -- with nothing between them and the roof, and only gratings for the lower windows. Territorial Governor Benjamin Potts bemoaned the prison's 'unfinished condition', maintaining that to complete the structure required at least an additional \$4,500"

The Montana Legislative Assembly authorized Governor Benjamin F. Potts to appoint a three-member director's board (Hugh Duncan, J. H. Robertson, Granville Stuart) and a warden (C. B. Adriance) to oversee the new Territorial facility. As their first act, the new directors petitioned for additional cells: "...We would recommend ...the Legislature to make an application to Congress for an appropriation to complete the present wing. The completion of this wing will give us twenty-eight additional cells, and judging from the fact that we now have nineteen prisoners, and that most of the recent arrivals have been for long terms, many of the cells asked for will soon be required"

After operating the facility for about one year, the Montana Territorial government decided that running a prison was unacceptably expensive and requested the Federal Government to once again resume administrative responsibility. The Act of June 20, 1874 restored Federal operational control and on August 1, 1874, U. S. Marshall William F. Wheeler assumed duties as the Prison's Administrator. At the urging of Montana's elected officials, Marshall Wheeler constructed an additional tier of 14 cells at a cost of \$6,000 using convict labor for the project. He also enclosed the prison yard with a twelve-foot high wood fence.

[Although Wheeler used inmate labor for prison construction in 1877, he indicated that although the inmates made their own clothes, cooked, cut lumber and performed "all that is done for the prison and themselves" the greatest misfortune to the prisoners was that they had no regular employment. Marshall Wheeler tried unsuccessfully to provide inmate contract laborers for Deer Lodge residential projects, as the prison offered no employment or industrial training beyond day-to-day facility related work.]

On July 7, 1884, the amount of \$15,000 was appropriated to complete the unfinished portions of the Prison because of a need for more inmate housing. However, Governor John Schuyler Crosby's newly

appointed Commission of Examiners found the East and West walls of the existing facility had no stone foundations; extended only eighteen inches into the ground, and were composed of soggy brick which could not support additional weight. Although the prison urgently needed additional cells, the available money was used to build a central office building with guard dormitories. This was done over the protests of U. S. Marshall Alexander B. Botkin, the Superintendent of Construction.

Finally, on March 3, 1885, Congress appropriated \$25,000 for completion of the Montana Territorial Prison and, by the spring of 1886, the South Wing was completed. This was a three-storied brick cell house containing a three-tier block of brick cells. There were forty-two new cells, which increased the facilities' overall inmate capacity by eighty-four. [Status as of March 3, 1885: 70 cells in the prison -- 14 constructed in 1870, 14 in 1874, and 42 in 1886. With double bunking, total capacity was 140].

Three years later, on November 8, 1889, Montana became the forty-first state and assumed ownership of a Prison, which it could not afford to operate, and certainly not renovate or modernize. In February 1890, the Board of Prison Commissioners contracted out the entire Prison operation at the rate of 70 cents per capita per diem to Colonel Thomas McTague and Frank Conley for a term of one year. The contract was renewed year-by-year until, in 1909, another firm underbid Conley and McTague. However the State owed Conley and McTague money for construction costs and inmate care which neither the State nor the newly selected contractors could afford to repay. As a result, Montana reassumed operational control over the Prison and appointed Conley as Warden, a position he retained until relieved of his duties by Governor Joseph Dixon in 1921.

When Conley began running the Montana prison it was overcrowded (198 inmates), deteriorating, and increasing in population. Inmates were being housed in outbuildings in the prison yard, carpenter shop, storehouse and wash house. There was also no substantial security fence or wall.

Warden Conley began his administration by beginning extensive renovation of the security fence and construction of a log cell house, which could house sixty-eight inmates. [With this addition, he was housing about 242 inmates in a facility with 70 actual cells (capacity 140 double-bunked), plus 68 inmates in the log cell house].

Montana's limited financial resources were the origin of inmate labor projects. During the early 1890s, the Prison at Deer Lodge had generally been ignored by the Board of Prison Commissioners who

supported construction of the proposed Eastern Montana Penitentiary at Billings. However, a shortage of State revenue resulting from the 1893 depression eliminated any possibility of funding for this project. The Prison Commissioners had to decide either to modernize or abandon the Deer Lodge facility.

If the Deer Lodge Prison were to continue operation, security considerations indicated the rotting board fence needed to be replaced with a more substantial obstacle. Construction of a stone wall was proposed and, in an attempt to reduce State expenditures for the project, the Prison Commissioners approved a plan to build the massive, stone wall using only a Construction Supervisor, a foreman to supervise convict laborers, and inmates. Warden Conley was able to deflect opposition to the Prison's use of inmate workers for the endeavor from organized labor and the press because the Board of Prison Commissioners supported the project. When completed, the stone fence was considered an unqualified success. It also served as a precedent which allowed Conley to strive toward his goal of prison self-sufficiency through use of inmate labor for subsequent building projects, and which eliminated reliance on scarce (and unpredictable) State funding.

"By the late 1890s approximately one-third of the prisoners worked outside the prison at special camps. Each of these...housed roughly 75 prisoners and three unarmed guards. At these camps the prisoners enjoyed a relatively high degree of freedom with neither chains nor cells restricting them. The only means of punishment 'for unruly prisoner...(was an) immediate return to the (prison) walls'." Conley used outside work crews, and trustees living outside the cellblock, to reduce secure prison cell requirements. For example, in 1911 the prison had 650 inmates but only 474 cells. Warden Conley indicated that in 1916 about fifty percent of inmates were working outside of the penitentiary.

Viewing Conley's construction projects from an historical perspective supports the assertion that: "...Throughout his thirty years of service he...transformed a rapidly deteriorating penitentiary into a modern prison. In 1893 Conley inaugurated his plan of prison construction...Through sheer determination and ambition, Conley insured the survival of the Deer Lodge Prison".

Depending upon the historian's viewpoint, Warden Conley either operated within his contractual obligations while running the prison as his own personal estate manned by convicted serfs, or he was an individual who: "tempered...pragmatic use of convict labor with a genuine concern for the prisoner's well-being". In either event, Conley and McTegue developed a system of contracting prison labor for local projects, which continued until 1921. "Conley 'hired out' his convicts for

both public and private work, using whip, chains and dogs as he considered necessary", and he retained the income from their labors; however, he also initiated "good time" during construction of the prison wall, which reduced sentence length and eventually led to the honor system. Convicts were kept busy from dawn until dark; Warden Conley became a very rich man, and a lot of unfunded projects were completed.

"From 1910 until 1920, prison construction crews traveled throughout Montana to erect numerous state buildings. In 1911, the Commissioners authorized the construction of a brick kiln at Deer Lodge. The prison crews used the brick to construct numerous buildings at the Prison and at other state facilities: the women's dormitory, store building, laundry, dining room, and inmates' dormitory at the Montana State Hospital in Warm Springs; the women's and the men's dormitory at the Institution for the Insane in Warm Springs; and the sleeping pavilion, power house, kitchen, and dairy barn of the State Tuberculosis Sanitarium in Galen. A 1,000 seat prison theater, constructed in 1919 with at least \$10,000 in funding donated by Senator William A. Clark, Jr., served as an entertainment facility for inmates and Deer Lodge residents, including movies and band concerts. [Senator Clark also established a \$25,000 trust fund for maintenance of a prison band including musical instruction and band equipment]. In 1920 unskilled prison labor built the hospital and the administration building in Warm Springs" Prisoners also constructed approximately 500 miles of roads throughout the state including work at Flathead Lake, Bozeman Pass and MacDonald Pass.

Some historical references indicate Frank Conley believed that at least half of his prisoners were insane. During his administration many convicts were transferred permanently to Warm Springs. He certainly believed in the efficacy of manual labor. Conley's views of rehabilitation were consistent with most prison officials of his time and he was vocal in his ridicule of "modern" theories of prison reform. "He attended an American Prison Association meeting in 1916, 'where longhaired men and shorthaired women sought to reform prisoners by prayer. I have been in this game thirty years...but I have never tried reforming men by prayer'." However, Conley also stated: "In order that reformation may find foothold, a prisoner must not lose his identity. He must be encouraged to think along elevating lines and to direct his mind in channels, which lead toward higher and better things. He must be allowed to still hold or gain back his self respect" Rehabilitation programs, by today's standards, were available to none but from Conley's viewpoint, productive manual labor and inmate rehabilitation were interdependent.

In 1920, Joseph Dixon, an energetic, progressive, and young reformer was elected Governor. By mid-April, 1921, Conley was relieved

of his duties on charges of misuse of state funds. He was tried and acquitted. However, questions of guilt or innocence regarding various assertions including abuse of personal power, misuse of funds, and corruption created great controversy. They contributed to Dixon's defeat in 1922, and have never been fully resolved. Conley, non-diplomatically wrote: "I wanted to resign a long time ago, but I waited for the bolshevik Governor to put the can on me and he did it fine, but my date will come sometime".

Wardens immediately succeeding Conley continued his practice of using inmate labor for work on a variety of needed projects and as a rehabilitative tool. They also began making efforts to initiate prison reform (as each viewed the topic) and to move toward prison program modernization. Convinced that Montana was fifty years behind industrial prisons in other states, Warden M. W. Potter spent three years trying to convert the facility into an educational and industrial institution. Potter's work crews re-roofed buildings and towers; constructed new ice and hog houses; worked at the brick kiln or sawmill; completed road work; finished the Ranch Superintendent's residence, and farmed extensively. He also established a vehicle paint shop. Warden Potter recommended appointment by the Governor of a committee of pragmatic businessmen to "initiate the importance and feasibility of prison industries", and finally resigned after three years of frustration.

His successor, J. W. Cole stated: "There is a great need of improvement in the matter of education of the prisoners...as there is not now nor has there been in the past any definite policy regarding this phase of prison management". Warden Cole resigned within a year.

In 1927, the Montana Legislature appropriated \$25,000 for a license plate factory and \$15,000 for a garment factory. Warden Austin B. Middleton, who had been Warden since 1926, stripped the original Federal Penitentiary building and installed the license plate factory in the North wing and the garment factory in the South wing. Middleton energetically pursued a goal of prison industry enhancement and viewed these two factories as important first steps toward development of a modern educational and vocational prison. However, the 1930s depression crippled his efforts. In response to economic pressures the State curtailed use convict labor, which was viewed as competition for non-inmates, seeking jobs. Funding for additional prison industry projects was eliminated, as were prison construction projects inside the facility.

Using the limited resources at his disposal, Middleton demolished the original Federal Penitentiary building in 1931-1932, and erected an inside administration building on its former site. He completed the

hospital-industrial shop complex in 1935 (which contained the hospital, garment and auto license shops), and his modernization efforts were severely limited as the result of inadequate funding and/or support. To make the situation even more difficult for Warden Middleton, the inmate population increased from 441 in 1928 to 721 in 1931.

"By 1935, laws required that all 'prison-made' goods be clearly stamped. On January 19, 1934, the Montana Legislature decreed that:

The sale in the open market in this state of all goods, wares and merchandise manufactured, produced, or mined, wholly or in part, by convicts or prisoners of the state...is hereby prohibited.

The legislature declared 'sales in the open market' to 'mean all sales made to the consuming public, through the medium of stores, shops, sale offices, sale agents, or agencies whether retail or wholesale.'

"As the Depression deepened and depleted State funds, a period of retrenchment commenced, lasting for over 30 years. The Prison evolved into strictly a maximum security or confinement prison. Its population increased dramatically while (effects of) the Depression limited the Prison's work programs and restricted its operations." There was no funding for construction, and the Montana State Prison's physical plant continued to deteriorate.

The vehicle license plant and garment factory appropriations of 1927 were the last industrial projects funded by the Legislature until 1942 when \$8,000 was appropriated for establishment of a tannery. This project which was never completed, and prison industry continued to be de-emphasized in favor of day-to-day maintenance and operational tasks.

As early as 1931 a special Joint Committee of the 22nd Legislative Assembly had strongly criticized the condition of the facility, especially the 1896 cell house: "This building is an eyesore to the state and is crying out in its filth and sanitary condition. " Disgusted by its overcrowded condition and the incessant stench due to the bucket system, the Committee declared it a disgrace to civilization. The cell house represented almost half of the Prison's entire cell capacity and it remained in operation until 1959.

In an attempt to maintain control in the overcrowded and deteriorating facility, the Prison administration gradually tightened discipline including re-emergence of the silent system. The Auburn, or silent system, had been loosely used during the Conley administration.

However, at that time housing in the secure Montana State Prison facility was the more restrictive option to working outside the facility. By the 1930s there were few opportunities for inmates to work outside of the cell house. Under the silent system, prisoners could not talk in the dining room, bath house, in line, in the exercise yard, or when working. Virtually the only inmate conversation permitted was between individuals sharing a cell and this exception probably only reflected the reality of enforcement difficulties. However, even in-cell conversation was not allowed at night. Living in the Prison became an increasingly grim experience.

The period during World War II provided a welcome reduction in the prison population and an improved State economy. However, the Prison continued to be under funded and ignored. Following World War II, the Prison population increased from 342 in 1945-1946 to 584 by 1950. At the same time, the Prison was facing a reduction in full-time, qualified staff. Staff/inmate ratios increased from 9.6 prisoners per employee in 1950 to 14 prisoners per employee by 1957. During this period the Prison staff effectively controlled only the outside perimeter walls while "boss-cons" controlled other inmates, service industries and the inmate concessions.

In 1957, during the "bloodless riot", about eighty inmates controlled the administration and cellblocks for approximately fifteen hours. State officials, during their negotiations to end the disturbance, agreed to improve Prison conditions and Attorney General Forrest H. Anderson presented a ten-point program intended to promote prison reform:

1. Substitution of a more efficient food service.
2. Establishment of an exercise yard inside the walls.
3. Installation of cell lighting facilities by which prisoners can read and work during off-hours.
4. Establishment of a disciplinary committee to insure against abuse of authority by custodial personnel.
5. Establishment of an inmate council where prisoners can air their complaints and expose inflammatory conditions before they result in a prison disturbance.
6. Enactment of certain security measures recommended by Scudder and the out-of-state wardens [Kenyon J. Scudder, Los Angeles penologist and member of the Osborne Committee] who visited the prison in February.

7. Possible acceleration of construction on the medium security buildings located on the prison farm in order to reduce pressure at the prison itself and afford an opportunity to increased inmate employment.
8. Establishment of prison classification and segregation system to increase security, better utilize inmate occupational skills, establish the basis for an effective rehabilitation system and lay the groundwork for successful parole.
9. Hiring of skilled professional personnel to implement the classification, segregation system and assist the warden generally.
10. Appointment by the Board of Prison Commissioners of an advisory committee of prominent citizens to maintain a continuing impartial evaluation of prison operation and progress.

Attorney General Anderson's list of reforms was not supported either by the Deer Lodge community or the inmates because the list did not include the need for a new prison.

In the fall of 1957, William Arthur escaped and abducted Laura Shafford. Although she was eventually released and Arthur re-captured, the local population, having lost confidence in Prison authorities, formed the Citizens Protective Association of Deer Lodge. This armed group of local individuals was organized to provide increased security for citizens in the area. Local concerns were further increased by a sit down strike involving about 275 inmates on January 27, 1958.

By 1957, members of the Legislature had become aware of and actively concerned about decades of deterioration of the physical plant at the old prison, as well as neglected programs and administration. The concern was great enough that the first study assigned the new Legislative Council was a study of what to do at the prison. The facilities' deteriorated condition was unequivocally described when, in 1958, the Montana Legislative Council investigated the Prison and summarized: "...not a single major physical facility at the Deer Lodge prison could be described as coming up to modern standards. Much of the prison is so antiquated, obsolete or limited in size that it is a positive detriment to basic correctional aims...To expend much money for this purpose (extensively repair or augment existing facilities) would be to buttress an outmoded and crumbling institution that should be abandoned at the earliest possible date..."

Warden F. O. Burrell resigned following Attorney General Anderson's expressed dismay with Burrell's failure to solve the Prison's problems. The Attorney General stated at the time, "If there is going to be peace at Deer Lodge, we must bring the prison out of the nineteenth century in a hurry". To begin this formidable task, Floyd E. Powell, the Deputy Warden from Wisconsin State Penitentiary, was appointed Warden of Montana State Prison on March 4, 1958.

Powell immediately recognized that existing Prison industry buildings were inadequate; that 40 to 50 percent of the inmates were idle, and that "much of the work was 'repetitive', unproductive, and improvised purely for the purpose of providing jobs'." He favored the construction of a new prison over extensive renovation of the old Penitentiary. "During September, 1958, the Prison Commissioners and the Montana Legislative Council's Prison Subcommittee joined with Warden Powell and Governor J. Hugo Aronson to support plans for a new prison. On November 8, 1958, the State of Montana was granted a Federal loan of \$6,673,438 for a new penitentiary"

[What happened to this Federal loan?]

The Legislative Council's report, published in December 1958, contained sweeping recommendations for the development of a modern, progressive prison program and physical plant to be developed in accordance with the long-range master plan. The report called for a new prison (300 minimum security; 250 medium security; 200 maximum security; 200 additional beds, for a total of 950 inmates) to be built on the ranch in four phases over a ten year period. An alternative plan, to be phased in over a four-year period, called for 850-inmate capacity.

The 1959 Legislature received the (Legislative Council's) report and enacted a measure providing for a \$5,000,000 bond issue to finance construction of a new prison. The issue was to be retired with revenue derived from a one-mill statewide property tax levy. As required by the Montana Constitution this measure was referred to the people for approval.

Following the 1959 session, at approximately 4:00 on the afternoon of April 16, 1959, Inmates Jerry Myles and Lee Smart, Jr. led about 12 other inmates in an escape attempt during which Deputy Warden Theodore Rothe was shot and killed, and Warden Powell was temporarily held hostage. This major riot, which lasted three days, ended in the murder/suicide of the two ringleaders during a successful assault of the prison by seven teams of National Guard troops. Although the riot was primarily attributed to personal problems of its leaders, the poor conditions at the prison were also implicated...

Crowded conditions in the rapidly deteriorating facility were made even worse when, on August 17, 1959, an earthquake damaged the 1896 cell house and it had to be demolished. The 1896 cell house contained nearly half of available beds within the facility.

Despite the concerns of the Legislature and the problems at the prison, the \$5,000,000 referendum was defeated at the polls in 1960. This vote set the tone for the remainder of the 1960s. In 1964 the prison's education program was called a "hoax and a fraud". In 1967 an inmate was found dead in the "hole" and the administration was criticized for allowing a prisoner to be placed in dangerous conditions. In 1969 there was concern over lack of training funds and training for prison employees. Deterioration of both the physical plant and the prison's programs were extensive by the end of the decade.

Despite the lack of material progress during the sixties, efforts on the part of prison officials and others continued. The Department of Institutions prepared a funding request in 1966 for the purpose of planning an inmate housing facility to be constructed near Rothe Hall on prison ranch grounds. This request (according to a Hoiland - Zucconi Architect report) was included in the 1967-77 Montana Long-Range Building Program. The 1967 Legislature appropriated preplanning funds to establish specific requirements and construction costs for the project. During the 1969 Legislature, terminology and emphasis changed slightly. The Legislature was asked to appropriate \$2.1 million for the construction of a rehabilitation center (to include both adult and juvenile residents). The Legislature passed laws (53-30-107 - 53-30-109, since repealed) authorized the establishment and operation of an "intensive rehabilitation center" at the prison. However, instead of the requested \$2.1 million, the prison received \$6,500 for library renovation.

In 1971, the Board of Institutions tried again to build a new prison. A request was submitted for \$2.9 million for long-range construction, including \$1 million for construction of a new prison facility. The Legislature hoped to obtain Federal funding and authorized a \$4 million prison complex. Of that amount, \$3 million was to come from the Federal Government and \$1 million from long-range building (See Study 2). Should the efforts to obtain Federal money fail, \$200,000 of the \$1 million in Montana money was to go to renovation of the old prison. The effort to obtain Federal money and a new prison failed because the Federal agencies at that time were emphasizing crime prevention programs, and not "bricks and mortar" projects.

The new Montana Constitution, adopted in 1972, reiterated a policy of inmate reformation. In 1973 Roger Crist, the new Warden, advocated increasing rehabilitation programs for the prison population of

250, half of whom were first offenders between 18 and 23. The issue was complicated by efforts to establish regional corrections facilities, rather than continue concentrating on the central prison. However, in 1973, the Legislature appropriated \$3.8 million for construction of a new prison.

Late in 1973, architects presented plans for a \$10 million prison for 325 inmates, which was rejected as too expensive. In January 1974 they reappeared with a \$4.9 million campus-like plan designed to allow easy prisoner segregation. The Legislature added \$600,000 to the 1973 appropriation with the expectation of \$200,000 from the Federal Government. The final total was \$4.6 million authorized for construction of a 334-bed prison.

After the plans were approved, prison population began to increase from a low of about 250 in 1973; to 489 in January 1977 and reached 514 in March of the same year. By early 1977, the new prison was nearly ready to open, at a cost of \$5.7 million, and was already 180 beds too small.

Two additional 96-bed units (Close I and Close II) were then approved by the Legislature (1977) with an appropriation of \$3.8 million. However this did not occur before many of the same questions raised at the 1973 session were revisited. Members proposed alternatives to new central prison construction. Proposals were also made that yet another master plan be prepared.

Later in the biennium (1979), the Law Enforcement Assistance Administration (LEAA) funded the development of a master plan through the Corrections Division at a cost of \$102,000. The Corrections Division Master Plan for Fiscal Years 1980 - 1985 emphasized expansion of Community Corrections services: "...the most critical problem at the prison is the population, which may mean that the institution is suffering from overuse. The prison is well suited for handling the dangerous or repeat offender who cannot be dealt with in any other way. But as a 1978 Master Plan survey of prison inmates revealed, 41 per cent did not present a substantial threat to society and could be kept in community corrections rather than sentenced to the prison". The Corrections Division Master Plan also included an inmate population projection, which predicted a peak of 1065 in 1983, with steady decline until 1991. "Given the incarceration rate in 1978 and 1979 to date, the best estimate of the rate of prison population would be 'business as usual' in 1979 and 1980, and then a slowing of the growth in 1981-82. Then, by 1983-84 the population should begin to level off, and unless legislation is enacted that increases the incarceration rate, the population should begin declining in 1985 and continue through 1990".

By the time the Legislature returned to Helena in 1979, the prison's inmate population was exceeding the design capacity of the newly expanded facility, and was approaching absolute maximum capacity of 718. During that session many alternatives were discussed, including pre-release center and community alternatives. Finally, in the appropriations conference committee, a proposal was adopted to build a facility similar to Swan River Youth Forest Camp in the Still water Forest in Northwest Montana, with a capacity of 80 inmates. In addition, the Legislature funded 118 more beds at MSP, and authorized a contingency fund to allow housing 40 inmates in either an institutional facility or a community setting.

The 1979 Legislature also became concerned that to meet the state's long-term prison needs a long-range prison facilities plan needed to be developed, and that the recently completed LEAA funded Corrections Division Master Plan did not satisfy their requirements. An interim committee was designated to study a wide variety of prison policy issues.

In the summer of 1979 the residents of the Tobacco Valley area clearly expressed their opposition to the Stillwater proposal. Faced with opposition, the Department of Institutions reconsidered their projections and decided the prison population would not increase enough to justify the additional 80 beds. The project was scrapped and, as the appropriation was specific, no beds were added at another location.

After Stillwater was settled, the committee concentrated on sentencing practices and assumed an oversight role for long-range corrections policy and facility issues. The Department spent the interim developing a correctional needs report which was presented to the committee at its final meeting, and which foresaw no need for additional prison construction. The committee concluded no additional facilities were needed at the prison in the immediate future; should prison population warrant additional facilities, residential programs outside the prison should be considered.

For the 1981 Legislative Session, problems of prison security were the uppermost issues. The escape problems at MSP had reached significant enough proportions that Deer Lodge citizens revived the Citizens Protective Association, which was originally established in 1957 following the Laura Shafford abduction. The Department requested additional staff, a new prison industries facility, and an improved perimeter fence. No additional prisoner housing facilities were requested despite the fact that the prison (including Swan River) was at least 150 inmates over design capacity.

The Legislature authorized funding for fence improvements, but did not approve the prison industries request. No new cells were requested or approved.

During the last part of 1981 and the early months of 1982, the population at the prison continued to rise. In March there was a disturbance and security concerns increased. Ultimately the Governor determined the situation had reached crisis proportions and new facilities would be needed. As a result, a special session was called to review problems in the entire adult correctional program.

Whereas, the Governor has convened the Legislature to consider the conditions and problems existing at the Montana State Prison and within the state's adult correctional program generally; and

Whereas, the Governor has appointed an independent Prison Alternatives Task Force to prepare recommendations on alternative correctional programs for Montana, and the task force has yet to complete its work; and

Whereas, the Legislature hears the demands of the people of Montana for swift and sure punishment of convicted criminals in a manner insuring the safety and protections of the people of Montana; and

Whereas, the Legislature also recognizes its responsibility to provide opportunities for the rehabilitation, reformation, and training of inmates in order to reduce recidivism and produce productive members of society; and

Whereas, the Legislature supports the following concepts:

1. Secure incarceration for dangerous offenders;
2. Actual work experience and vocational and on-the-job training for inmates, which instill in them the work ethic and which better utilize facilities such as the prison ranch;
3. Educational opportunities for inmates desiring to avail themselves of such opportunities;
4. Alcohol and drug counseling for inmates; and

5. Cooperation between agencies of state government and the university system for the utilization of staff and services that may be beneficial for the inmates of the prison and general;

6. Adequate training programs for the prison staff; and

Whereas, the people of Montana have had only limited opportunity to be heard in a structured and productive hearing process for purposes of expressing their concerns and expectations for Montana's correctional system.

Therefore, it is the intent of this act that a fact-finding task force of the Legislature be created to develop a plan of action on corrections for presentation to the 48th Legislature.

Summary of Findings and Recommendations of the Montana Legislative Council Fact finding Task Force on Corrections:

The Task Force found that it was widely perceived among corrections professionals and policy makers that Montana has no correctional policy or, if it does, that it is so spread among constitutional, statutory, and administrative authorities as to be disjointed and uncertain. Once a clear policy is articulated, statutes and administrative policies must be altered to conform to the adopted policy.

The Task Force indicated the number one priority at Montana State Prison "...is the provision of an additional 180 to 200 high security cells" It found the prison to be significantly overcrowded and projected "Should current growth trends in the system continue, the estimated population of 900 could easily be too low, and, in addition, could exceed 1,300 by 1990"

The Taskforce recommended strengthening Prison ranch management; setting aside 36 beds for treatment programs; and, expanding pre-release.

In the area of Long-range Planning:

"The Task Force finds that neither the Legislature nor the Executive has engaged in meaningful long-range planning over the past decade. This has resulted in prison facilities chronically short of space and a constant crisis atmosphere. Emergency measures for low security inmates were adopted by the Legislature in 1979, but not implemented. No proposal was presented or adopted by the

Legislature in 1981, but the crisis atmosphere prevailed and resulted in a special session. The state must do better".

"The Task Force recommends that the Executive approach long-range planning for the adult corrections system on an ongoing, systematic basis. After watching the development of trends, a contingency plan should be available six months prior to the convening of the 49th Legislature."

Prison Analysis, Special Session II - 1983 Biennium, submitted by the Office of the Legislative Fiscal Analyst, June, 1982, indicates the Executive Budget submitted to the 47th Legislature "...is requesting a new prison facility to handle 120 maximum security inmates, expand community corrections for 79 minimum security inmates, and improve the present state prison to house 673 inmates. Increased annual operating costs before considering inflation are \$1,880,110. Building and major improvement will cost \$10,607,880".

In August 1987, Governor Ted Schwinden created the 16-member Criminal Justice and Corrections Advisory Council. His Executive order charged the Council to thoroughly review Montana's existing criminal justice and correctional systems, and to recommend modifications. The Council submitted twelve recommendations to the Governor, for his consideration, in September 1988. They were:

1. Intensive Supervision programs should be established in Billings, Great Falls, and Missoula. Each should have the capacity to supervise 25 offenders.

2. Procedures should be developed allowing convicted felony offenders to be diverted from MSP or WCC to available beds in existing pre-release centers (Billings, Butte Great Falls, and Missoula).

3. Legislation should be enacted permitting, under emergency circumstances, the early discharge of certain MSP and WCC inmates. This early discharge mechanism would be activated under the same conditions as the early parole provisions (MSP or WCC exceeds design capacity for more than 30 days).

4. The probation and parole workforce should be increased by ten officers.

5. Hire two psychologists, one correctional training specialist, and one secretary at MSP (to expand the sex offender treatment program).

6. Implement a pre-parole program to better prepare inmates for parole hearings and possible release.

7. Authorize District Judges to statutorily conditionally discharge probationers from supervision prior to sentence expiration.

8. Following due process (hearing and finding of guilt) allow regional P&P Supervisors to place parole conditions or pre-release violators in county jail in lieu of return to MSP or WCC.

9. Revise supervised release application requirements.

10. Replace mandatory language in 46-30-201 to remove liberty interest from parole statute.

11. Make the Chairman of the Board of Pardons a half-time salaried state official.

12. Stagger the terms of Board of Pardons' members.

None of the recommendations by this Criminal Justice and Corrections Advisory Council included construction of additional cells. Instead, they addressed issues and procedures related to releasing inmates from MSP and WCC.

In September of 1989, another Criminal Justice and Advisory council, formed at the request of Governor Stan Stephens in Executive Order 17-89, began to address the following issues:

1. To address the needs of Montana's female offenders.

2. To develop statistical data on Montana's sentencing statutes and practices and to review our sentencing and release practices; and,

3. To further examine ways to address the crowding problems in our adult male correctional institutions and provide viable alternatives for addressing both male and female population problems.

Summary of recommendations from the July, 1990 report by this council:

Subcommittee on Women Offenders:

1a. The Council recommends two beds be added to the Women's Life Skills Center and an additional 12-15 bed pre-release center be established.

1b. The Council recommends that contingency funding be provided to allow the Department to address immediate housing needs associated with increasing female inmate populations through 1993.

2. The Council recommends that a new women's facility of 100-120 beds should be the number one building priority for the Department, that it be operated by the state, and that private sector funding options for construction be explored to determine if they are cost-effective.

Subcommittee on Prison Overcrowding:

1. Hire two targeted case managers at MSP.
2. Encourage local jurisdictions to create house arrest and community service programs for offenders in lieu of prison sentences.
3. Construct three new housing units to include: a) a 120-bed high security treatment unit, (b) a 96-bed high security unit, and © a 96-bed low security unit at MSP.
4. Endorse the expansion of pre-release centers, and include additional funding for chemical dependency treatment.
5. Release selected offenders to electronic monitoring/house arrest for last two months of pre-release.
6. Develop graduated sanctions for parole and parole violators.
7. Institute flat rate good time for parolees.
8. Change the statutes to sentence offenders to a correctional authority.

9. Expand the Intensive Supervision Program to a third city.

10. Add an additional level of probation and parole supervision, which would take greater advantage of curfew and house arrest options by providing more electronic monitoring and increased supervision.

11. Provide technical assistance to the Board of Pardons amend various parole eligibility provisions.

Subcommittee on Sentencing and Release:

1. Create a legislative oversight committee to review legislation effecting corrections.

2. Recommend creation of a task force to take a comprehensive look at sentencing, treatment, and release issues.

3. Increase probation and parole resources for Field Services.

4. Increase probation and parole resources for the Board of Pardons.

On September 22, 1991, the riot in the Maximum-Security building at Montana State Prison resulted in the murder of five protective custody inmates. An Administrative Inquiry Team, funded by the National Institute of Corrections, prepared the Riot At Max report, which was completed December 14, 1991.

In the months following the riot; all recommendations were listed by Corrections in a goal/objective format, and specifically addressed.